

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11924-RGS

IAN J. BROWN, JAMES
BROWN, and BARBARA
BROWN,

Plaintiffs,

v.

UNITED STATES OF
AMERICA, VERIZON NEW
ENGLAND, INC., and
BOSTON EDISON COMPANY
d/b/a NSTAR ELECTRIC,
Defendants.

**MOTION OF THE PLAINTIFFS FOR LEAVE TO FILE SURREPLY
MEMORANDUM IN OPPOSITION TO THE MOTION TO DISMISS
FILED BY DEFENDANT UNITED STATES OF AMERICA**

Now come Plaintiffs, Ian J. Brown, James Brown, and Barbara Brown and move this Honorable Court, pursuant to Local Rule 7.1(B)(3), for leave to file a Surreply Memorandum in Opposition to the Motion to Dismiss that has been filed by Defendant United States of America. In support of this Motion for Leave, the Plaintiffs note that the United States has been granted leave to file a Reply Memorandum in Support of its Motion to Dismiss, and the Plaintiffs assert that their proposed Surreply Memorandum, which has been filed herewith, is necessary in order to fully and fairly respond to the issues raised by the United States' Reply Memorandum.

Respectfully submitted,

The Plaintiffs,
IAN J. BROWN, JAMES
BROWN, and BARBARA BROWN,
By their attorney,

/s/ Scott E. Charnas
Scott E. Charnas, BBO No. 081240
John S. Day, BBO No. 639249
Manheimer & Charnas, LLP
210 Commercial Street
Boston, MA 02109
(617) 557-4700

Date: February 9, 2005

LOCAL RULE 7.1 CERTIFICATION

I, John S. Day, certify that, on Friday, February 4, 2005, I conferred by telephone with Assistant United States Attorney Damian W. Wilmot, counsel for Defendant United States of America, regarding this Motion by the Plaintiffs for Leave to file a Surreply Memorandum in Opposition to the United States' Motion to Dismiss, and Mr. Wilmot consented to the filing of this motion.

/s/ John S. Day
John S. Day, BBO No. 639249
Manheimer & Charnas, LLP
210 Commercial Street
Boston, MA 02109
(617) 557-4700

CERTIFICATE OF SERVICE

I, Scott E. Charnas, hereby certify that on the 9th day of February, 2005, I caused a copy of the foregoing to be served, by electronic filing and by first class mail, postage prepaid, upon Damian W. Wilmot, Esquire, and Mark T. Quinlivan, Esquire, Assistant United States Attorney, Moakley Federal Courthouse, One Courthouse Way, Suite 9200, Boston, Massachusetts 02210, William A. Worth, Esquire, Prince, Lobel, Glovsky & Tye, LLP, 585 Commercial Street, Boston, Massachusetts 02109, and Michael K. Callahan, Esquire, NSTAR Electric & Gas Corporation, Prudential Tower, 800 Boylston Street, 17th Floor, Boston, Massachusetts 02109.

/s/ Scott E. Charnas
Scott E. Charnas